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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

CITY OF NORFOLK v. ANTHONY.

Sept. 9, 1915.

[86 S. E. 68.]

1. Municipal Corporations (§ 729*)—Public Places—Care Required.—Where public buildings are operated for profit, in the exercise of which operation the city is performing a ministerial duty, the duty devolves upon the city to use the same care that is required of a private owner with respect to invitees upon his premises.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 1545; Dec. Dig. § 729.* 10 Va.-W. Va. Enc. Dig. 213.]

2. Negligence (§ 136*)—Actions—Question of Law and Fact.—Negligence only becomes a question of law, to be taken from the jury, when the facts are such that fair-minded men can only draw from them the inference that there is no negligence; if fair-minded men, from proofs submitted, may honestly differ, the question is for the jury.

[Ed. Note.—For other cases, see *Negligence*, Cent. Dig. §§ 277-353; Dec. Dig. § 136.* 10 Va.-W. Va. Enc. Dig. 418.]

3. Municipal Corporations (§ 857*)—Torts—Defects in Public Buildings.—In an action for personal injuries sustained by slipping on the floor of defendant city's market house, because of obstructions and refuse thereon, evidence held to require the submission of negligence and proximate cause to the jury.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 1812; Dec. Dig. § 857.* 10 Va.-W. Va. Enc. Dig. 213.]

4. Appeal and Error (§ 1001*)—Evidence—Review.—While an appellate court may pass upon the evidence, in a case where it has to be considered as a demurrer thereto, it will not reverse the judgment of the trial court and grant a new trial because the verdict is contrary to the evidence, or without evidence to support it, and not in a doubtful case merely because the court would have given a different verdict.

[Ed. Note.—For other cases, see *Appeal and Error*, Cent. Dig. §§ 3922, 3928-3934; Dec. Dig. § 1001.* 1 Va.-W. Va. Enc. Dig. 605.]

5. Municipal Corporations (§ 857*)—Torts—Defects in Public Buildings—Evidence.—In an action for personal injuries sustained by a

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

fall in defendant's market place, due to obstructions and refuse on the floor, evidence held to sustain a verdict for plaintiff.

[Ed. Note.—For other cases, see *Municipal Corporations*, Cent. Dig. § 1812; Dec. Dig. § 857.* 10 Va.-W. Va. Enc. Dig. 217.]

Error to Court of Law and Chancery of City of Norfolk.

Action by Esther Anthony against the City of Norfolk. Judgment for plaintiff, and defendant brings error. Affirmed.

George Pilcher, of Norfolk, for plaintiff in error.

S. M. Brandt, of Norfolk, for defendant in error.

KLAFF *v.* PRATT.

Sept. 9, 1915.

[86 S. E. 74.]

1. Contracts (§ 116*)—Restraint of Trade—Test of Reasonableness.—Whether the restraint of one agreeing not to engage in a certain business within certain limits for a certain time is reasonable is to be determined by considering whether it is only as to afford fair protection to the interests of the party for whom it is given, and not so much as to interfere with the interests of the public.

[Ed. Note.—For other cases, see *Contracts*, Cent. Dig. §§ 542-552; Dec. Dig. § 116.* 11 Va. & W.-Va. Enc. Dig. 937.]

2. Contracts (§ 141*)—Contracts in Restraint of Trade—Burden of Proof.—A party who seeks to enforce a contract in restraint of trade, such as an agreement not to engage in a certain business in a certain vicinity for a specified time, must show that it is reasonable.

[Ed. Note.—For other cases, see *Contracts*, Cent. Dig. §§ 461, 1760, 1761, 1785; Dec. Dig. § 141.* 11 Va.-W. Va. Enc. Dig. 938.]

3. Contracts (§ 116*)—Contracts in Restraint of Trade—Test of Injury to Public.—Where the tendency of an agreement not to engage in a certain business for a specified time is to lessen competition, or raise the price of commodities, it is injuries to the public, and unenforceable.

[Ed. Note.—For other cases, see *Contracts*, Cent. Dig. §§ 542-552; Dec. Dig. § 116.* 11 Va.-W. Va. Enc. Dig. 939.]

4. Injunction (§ 128*)—Evidence—Contracts in Restraint of Trade—Establishment.—Valid agreements in restraint of trade must be established by clear and satisfactory proof, to justify a court in restraining their breach by injunction. Their terms and the consideration on which they are founded must be certain.

[Ed. Note.—For other cases, see *Injunction*, Cent. Dig. § 278; Dec. Dig. § 128.* 7 Va.-W. Va. Enc. Dig. 590.]

5. Injunction (§ 61*)—Contracts in Restraint of Trade—Enforcement—Propriety.—Where defendant, a citizen of Virginia, contracted

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